

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

WILLIE F. HESS,

No. 03:09-CV-861-AC

Petitioner,

ORDER

v.

RICK ANGELOZZI, Superintendent,
Warner Creek Correctional Facility,

Respondent.

Willie F. Hess, Pro Se
#6598452
Warner Creek Correctional Facility
PO Box 1500
Lakeview, OR 97630

Attorney for Petitioner

Andrew D. Hallman

Oregon Department of Justice
CCR Section
1162 Court Street, NE
Salem, OR 97301

Attorney for Respondent

HERNANDEZ, District Judge:

Magistrate Judge John Acosta issued a Findings and Recommendation (#55) on June 21, 2011, in which he recommends that the Court deny the Amended Petition for Writ of Habeas Corpus (#46), enter a judgment of dismissal, and deny a Certificate of Appealability. Petitioner Hess timely filed objections to the Findings and Recommendation. The matter is now before me pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b).

When any party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1); Dawson v. Marshall, 561 F.3d 930, 932 (9th Cir. 2009); United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc).

I have carefully considered Petitioner Hess's objections and conclude that the objections do not provide a basis to modify the Findings and Recommendation. I have also reviewed the pertinent portions of the record *de novo* and find no error in the Magistrate Judge's Findings and Recommendation.

CONCLUSION

The Court ADOPTS Magistrate Judge Acosta's Findings and Recommendation (#55) and, therefore, the Amended Petition for Writ of Habeas Corpus (#46) is denied and a judgment of dismissal is entered. A Certificate of Appealability is also denied because petitioner has not made a substantial showing of the denial of a constitutional right.

IT IS SO ORDERED.

DATED this 29th day of July, 2011.

/s/ Marco Hernandez
MARCO HERNANDEZ
United States District Judge